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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

OFELIA COLOYAN	)	CIV. NO. 03-476 SOM-KSC
	)	
Plaintiff,	)	
vs.	)	FOURTH AMENDED
	)	COMPLAINT; SUMMONS
	)	
WILLIAM P. BADUA;	)	
JEFFREY OMAI;	)	
SPENCER ANDERSON;	)	
NEIL PANG;	)	
and DOES 5-10,	)	
	)	
Defendants.	)	
	)	

FOURTH AMENDED COMPLAINT

COMES NOW PLAINTIFF OFELIA COLOYAN, by and through her  
under-signed counsel and alleges as follows:

RECEIVED  
CORPORATION COUNSEL  
C AND C OF HAWAII

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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JUN 30 2005

at 2 o'clock and 6 min. M  
SUE BEITIA, CLERK

EXHIBIT A

1. This action is brought to re-dress the unlawful search of Plaintiff's home and arises under the Constitution of the United States, particularly the 4th and 14th Amendments to the United States Constitution, Article I, § 7 of the Hawaii State Constitution, and Hawaii statutory and common law, including trespass.

#### JURISDICTION

2. Jurisdiction of the Court is invoked under 28 U.S.C. §§ 1331 and 1343(a)(3) and (4), and supplemental jurisdiction over state law claims is invoked under 28 U.S.C. § 1367(a). Further, this claim is made for a declaration of rights under 42 U.S.C. § 1983.

#### VENUE

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 for the Defendants are residents of this State.

### PARTIES

4. Plaintiff Ofelia Coloyan (along with her husband Alejandro Coloyan) is the owner of her home at 91-1082 Kapa'ahulani Street in Ewa Beach, Hawaii which was unlawfully searched in this case on June 3, 2003. She is a citizen of the United States and resident of the City & County of Honolulu, State of Hawaii.

5. Defendants William P. Badua, Jeffrey Omai, Spencer Anderson, Neil Pang, and DOES 5-10 are police officers for the City & County of Honolulu, State of Hawaii, and were so at all times relevant to this proceeding. They are sued in their individual capacities.

6. Defendants DOES 5-10 are sued herein under fictitious names in accordance with Wakefield v. Thompson, 177 F.3d 1160 (9th Cir. 1999) because their true names and identities are presently unknown. Plaintiff will seek leave to identify these DOES when their names become known.

### CAUSES OF ACTION

7. On or about June 3, 2003, Defendants and others, acting under color of state law, came to Plaintiff's residence at 91-1082 Kapa'ahulani Street in Ewa Beach, Hawaii to arrest Allan Coloyan, Plaintiff's 23-year-old son.

8. Defendant Badua approached Plaintiff's front door and questioned her about the whereabouts of her son for whom he had an arrest warrant. Plaintiff informed Officer Badua that her son was working in Alaska.

9. Thereafter, over Plaintiff's objection and without her consent, Defendants Badua, Omai, Anderson, and DOES 5-10 searched Plaintiff's home. Further, Defendant Pang admits to at least being on Plaintiff's property but was not sure where on her property he went to.

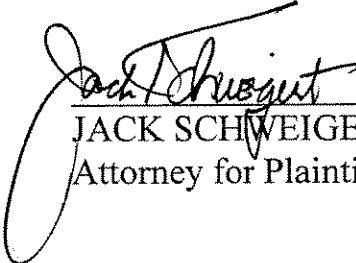
10. While carrying out this operation, Defendants Badua, Omai, Anderson, and DOES 5-10 did not have a search warrant to search Plaintiff's home. Further, Plaintiff did not consent to this search of her home so that Defendants Badua, Omai, Anderson, and DOES 5-10 violated the 4th and 14th Amendments, U.S. Constitution, and Article 1 § 7, Hawaii Constitution, prohibiting unreasonable searches and seizures. Further, Defendant Pang did not have consent to be on Plaintiff's property so that his conduct was a trespass.

11. The Defendants' wrongful conduct has caused Plaintiff to suffer injury including emotional distress, difficulty eating and sleeping, mental anguish, anxiety, embarrassment, humiliation, and shame, which entitles her to damages in an amount to be proven at trial.

12. In addition to the foregoing, Defendants' conduct was done in reckless disregard of Plaintiff's constitutional rights thereby entitling her to punitive damages in an amount to be proven at trial.

WHEREFORE, Plaintiff prays that judgment enter in her favor and against Defendants awarding her all of her damages, including punitive damages and attorney fees, costs as provided by law, and such other relief as the Court may deem just.

DATED: Honolulu, Hawaii; June 30, 2005.

  
\_\_\_\_\_  
JACK SCHWEIGERT, ESQ.  
Attorney for Plaintiff

AO 440 (Rev. 8/01) Summons in a Civil Action

## UNITED STATES DISTRICT COURT

District of Hawaii

Ofelia Coloyan

SUMMONS TO ANSWER  
FOURTH AMENDED COMPLAINT

V.

William P. Badua; Jeffrey Omai;  
Spencer Anderson; Neil Pang; and DOES 5-10

CASE NUMBER: 03-476 SOM-KSC

TO: (Name and address of Defendant)

Jeffrey Omai, Spencer Anderson, Neil Pang  
c/o Honolulu Police Department  
801 S. Beretania Street,  
Honolulu, Hawaii 96813

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Jack Schweigert, Esq.  
550 Halekauwila, Room 309  
Honolulu, Hawaii 96813  
ph. 533-7491 / fax 533-7490

an answer to the Fourth Amended Complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

SUE BEITIA

JUN 30 2005

CLERK

DATE

/s/ Drew Tomimoto

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

**RETURN OF SERVICE**

Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE
NAME OF SERVER (PRINT)	TITLE

*Check one box below to indicate appropriate method of service*

- ☐ Served personally upon the defendant. Place where served:
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  
Name of person with whom the summons and complaint were left:
- ☐ Returned unexecuted:
- ☐ Other (specify):

**STATEMENT OF SERVICE FEES**

TRAVEL	SERVICES	TOTAL \$0.00
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**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Server

\_\_\_\_\_  
Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.